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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,709	04/11/2001	Karla E. Williams	460.2050USU	1658

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EXAMINER

GRAYSON, ANGELA J

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 12/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/832,709

Applicant(s)

WILLIAMS ET AL.

Examiner

Angela J. Grayson, Esq.

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Application filed on 4-11-2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 24-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

1. The abstract of the disclosure is objected to because the Abstract fails to disclose particularly what the applicant regards as her invention; rather, the Abstract vaguely discloses all-natural malodor counteractants. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because claim 7 is identical to claim 2. Correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 6-8; 11-12 are rejected under 35 U.S.C. 102(b) as being US Patent No. 4,880,417 to Yabrov et al.

As to claims 1 and 6, Yabrov discloses a fibrous absorbent article for absorbing body fluids, (Abstract; col. 4 lines 1-8) the fibrous absorbent article comprising one or more malodor counteractant materials wherein one or more malodor counteractant materials is in liquid form (col. 4 lines 20-31) and wherein one or more malodor counteractant materials is naturally sourced (inherent that glycerin is naturally sourced) .

As to claims 2, 3, 7, 8, Yabrov discloses a fibrous absorbent article wherein one the more malodor counteractants is selected from the group consisting of glycerin. (col. 4 lines 20-31).

As to claims 11 and 12, Yabrov discloses a fibrous absorbent article for absorbing body fluids, the fibrous absorbent article having a malodor counteractant material comprising glycerin, and at least a naturally occurring deodorizing agent (col. 4 line 32); and where glycerin is in liquid form (col. 4 lines 26-27).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-5; 9-10;13-15; 20, 21, 22, 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Yabrov.

As to claims 4 and 5, 9 and 10, Yabrov discloses a fibrous absorbent article as in claim 1 where the glycerin exists in a ration 10:1 and 20:1 versus ethyl alcohol, but fails

to disclose wherein one or more malodor counteractant materials is present between about 0.01 grams to about 50% of the total weight of the fibrous absorbent article.

However, it would have been an obvious matter of design choice to design the article having one or more malodor counteractant materials present between about 0.01 grams to about 50% of the total weight of the fibrous absorbent article, since applicant has not disclosed that the limitation solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well as in disclosed in Yabrov.

As to claims 13, and 15, 22, 23 Yabrov discloses a fibrous absorbent article for absorbing body fluids, having one or more malodor counteractant materials (col. 4 lines 20-25), but fails to disclose the counteractant materials are naturally sourced. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to design the article with naturally sourced counteractant materials, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

As to claims 20, and 21, Yabrov discloses a fibrous absorbent article for absorbing body fluids, the fibrous absorbent article having thereon a malodor counteractant material comprising glycerin, that does not support microbial growth, and fragrance, but fails to disclose naturally occurring deodorizing active (fragrance). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to design the article with naturally sourced counteractant materials, since it has been held to be within the general skill of a worker in the art to

Art Unit: 3765

select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Additionally, it is well known that glycerin has been used in the toiletry industry for many years because, among other reasons, glycerin has antimicrobial properties.

As to claim 14, Yabrov discloses an absorbent article as in claim 11, wherein at least one additional malodor counteractant material is in liquid form. (col. 4 lines 31-33 disclosing fragrance may be added to the solution of glycerin and ethyl alcohol).

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yabrov in view of US Patent No. 4,525,410 to Hagiwara et al.

As to claim 16, Yabrov discloses a fibrous absorbent article as in claim 11, but fails to disclose wherein the zeolite is a thermal type 3 clinoptilolite. However, Hagiwara makes such a disclosure (col. 3 lines 16-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yabrov with the zeolite found in Hagiwara since Hagiwara suggests clinoptilolite is naturally occurring and has bactericidal properties.

9. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 813848 to Bewick-Sonntag.

As to claims 17-19, Yabrov discloses an absorbent article as in claim 11, but fails to disclose wherein the acid is citric acid, wherein the oxidant is ascorbic acid, wherein the chelating agent is ascorbic acid, however, Bewick-Sonntag makes such a disclosure (page 8 line 16-page 9 line 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yabrov to include citric acid and,

ascorbic acid since the modifications provide a reaction with malodorous compounds or with compounds which produce malodorous degradation (Bewick page 8 line 36-37).


***Allowable Subject Matter***

10. Claims 25-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Grayson, Esq. whose telephone number is 703-305-1806. The examiner can normally be reached on Monday-Thursday from 9:30 am to 7:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 703-305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.

Angela J. Grayson, Esq.   
November 4, 2002

  
JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700